

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ERNESTO RODRIGUEZ ORDUNEZ,
Petitioner,

v.

CIV 12-0792 JCH/KBM

PENITENTIARY OF NEW MEXICO,
JAMES LOPEZ, Warden,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

The Magistrate Judge filed her Proposed Findings and Recommended Disposition on July 8, 2013 in this counseled habeas action. See Doc. 29. The proposed findings notify the parties of their ability to file objections and that failure to do so waives appellate review. To-date, counsel has not filed any objections and there is nothing in the record indicating that the proposed findings were not delivered.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 29) is ADOPTED;
2. Per habeas counsel's position and/or the Court's findings above, the Second Amended Petition is considered amended to have dropped the sufficiency of the evidence claim and the unexhausted ineffectiveness claim designated by Petitioner as "J;"
3. The Motion to Dismiss (Doc. 17) is GRANTED;
4. The § 2254 petition as amended above, is DENIED as without merit and **dismissed with prejudice**; and

5. A final order and order denying a certificate of appealability enter concurrently herewith.



UNITED STATES DISTRICT JUDGE